

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs

No. CR 21-584 KWR

JEREMY ATENCIO,

Defendant.

**ORDER GRANTING CONTINUANCE OF TRIAL  
AND PRETRIAL DEADLINES**

**THIS MATTER** is before the Court on *Defendant's Unopposed Motion to Continue Trial*, filed August 26, 2021 (Doc. 18). The Court having considered the motion and having considered the holding in *United States v. Toombs*, 574 F.3d 1262 (10<sup>th</sup> Cir. 2009), finds that the Defendant has by his motion, created a sufficient record to justify granting the motion to continue. See id., 574 F.3d at 1271 (requiring that the record on a motion to continue contain an explanation of why the mere occurrence of the event identified by the party as necessitating the continuance results in the need for additional time). Additionally, the Court finds that further, pursuant to the relevant factors under 18 U.S.C. §3161(h)(7)(B)(i-iv), counsel needs additional time to prepare and file any necessary pretrial motions; to thoroughly review discovery with Mr. Atencio; to enter into plea negotiations with the government. The parties believe that plea negotiations may prove fruitful in this case and that such negotiations may benefit both Mr. Atencio and the government; and to conduct an investigation, including interviewing witnesses and consulting with expert witnesses which justify a continuance. Therefore, all the time from the filing of the motion until the beginning of jury selection in this matter shall be excluded for the purposes of the Speedy Trial Act.


**IT IS THEREFORE ORDERED** that the Jury Selection/Trial of **September 13, 2021** is **VACATED**. Call of the Calendar is reset for **December 2, 2021, at 9:00 a.m.** and Jury Selection/Trial is reset for **December 6, 2021, at 9:00 a.m.**, on a trailing docket at the United States Courthouse, 333 Lomas Blvd., NW, Bonito Courtroom, before Judge Kea W. Riggs in Albuquerque, New Mexico.

**IT IS FURTHER ORDERED** that the substantive motion deadline is hereby extended until **November 1, 2021**.

**IT IS FURTHER ORDERED** that, so as to conserve judicial resources, any motion to continue trial must be filed no later than **November 22, 2021**.

**IT IS FURTHER ORDERED** that pursuant to 18 U.S.C. §3161(h)(7)(A), the Court finds that the ends of justice served by granting the unopposed motion for continuance outweigh the best interest of the public and the defendant in a speedy trial.

**IT IS FINALLY ORDERED** that counsel shall adhere to the instructions and case management deadlines as set forth in the following attachment, "Preparation for Criminal Trial" (includes guidelines for preparation of proposed jury instructions, JERS Informational Letter, and JERS Attorney Guide).

  
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KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE

**PLEASE REFER TO THE FOLLOWING  
ATTACHMENTS FOR ADDITIONAL DEADLINES AND INFORMATION:**

“Preparation for Criminal Trial” (includes guidelines for preparation of proposed jury instructions, JERS Informational Letter, and JERS Attorney Guide).

**OTHER INSTRUCTIONS/MOTION TO CONTINUE TRIAL DEADLINE:**

Motions for continuance in criminal cases must be filed in accordance with 18 U.S.C. § 3161(h)(7)(A), specifically setting forth the factual grounds justifying the continuance under the statute. In cases involving multiple defendants, counsel must file a joint motion for continuance with all counsel approving said motion. MOTIONS TO CONTINUE MUST COMPLY WITH THE SPECIFIC REQUIREMENTS SET FORTH IN *UNITED STATES V. TOOMBS*, 574 F.3D 1262 (10TH CIR. 2009). THE MOTION “MUST CONTAIN AN EXPLANATION OF WHY THE MERE OCCURRENCE OF THE EVENT IDENTIFIED BY THE PARTY AS NECESSITATING THE CONTINUANCE RESULTS IN THE NEED FOR ADDITIONAL TIME.” *ID.* AT 1271. MOTIONS CONTAINING SHORT, CONCLUSORY STATEMENTS REGARDING THE REASON A CONTINUANCE IS REQUESTED ARE INSUFFICIENT UNDER *TOOMBS* AND WILL BE SUMMARILY DENIED BY THE COURT.

**TRAILING TRIAL DOCKET:**

Counsel are referred to the trailing docket of cases as they appear for jury/selection trial on the Public Court Calendar for December 2021. The order in which cases appear on the Court Calendar does not necessarily reflect the order in which cases will be tried.